

Overseas Branch  
Employees Division  
Legal Staff

13 December 1949

Foreign Post Differential - [REDACTED]

STATINTL

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1. [REDACTED] presents the question of Subject's eligibility for a 10% base pay differential applicable to her foreign station.

2. The foreign post differential was conceived - among other reasons - as a recruitment incentive, and was authorized by the President under Executive Order No. 10000. Certain authority was delegated to the Secretary of State, and in amplification of the order, complementary regulations were issued under Title 5 of the Code of Federal Regulations, Part 325. Section 325.4 provides that in order for an employee to be eligible for a foreign post differential he must be a citizen or national of the United States, and the employing agency must determine that the employee is located at the post because of his employment by the United States. In the words of the Code:

"This includes, but is not necessarily limited to, United States citizens or nationals of the following groups:

a. Those recruited or transferred from the United States, except in the case of a spouse of a person employed, stationed or resident in the area, where the agency concerned determines that the spouse's presence there is primarily in order to be with such individual."

This appears to be the only pertinent provision applicable to the present case, and the question of whether Subject falls within the exception is therefore presented.

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3. From the statement of facts presented, it appears that Subject's presence in [REDACTED] was primarily due to a desire to be with her husband. Unless the personnel file as it now stands contains a definite understanding that she was available for - and would have accepted - assignment at some post apart from her husband, and the Agency assigned her to [REDACTED] solely for the benefit of operational efficiency, then the Agency could hardly be justified in considering her a person who was located at the post because of employment by the U. S. As the question is presented, we believe the disallowance of the post differential is proper.

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Above dispatch attached. [REDACTED]

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